



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PROFESSIONAL, ADMINISTRATIVE and
TECHNICAL EMPLOYEES OF DERRY

Petitioner

and

TOWN OF DERRY

Respondent

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CASE NO. M-0626

DECISION NO. 90-33

APPEARANCES

Representing the Professional Administrative & Technical Employees of Derry:

Gary W. Wulf, Consultant

Representing Town of Derry:

Robert P. Leslie, Esq., Counsel

Harry S. Gale, Consultant

Also appearing:

Ronald Gagnon, Fire Department
Harvey D. Cote, Fire Department
George Sious, Derry Planning Director
Malcolm MacIver, Police Department
Rodney Bartlett, Town of Derry
Paul S. Vayer, Town of Derry
David Gomez, Assessor
Glenn Hunter, Public Works Department

BACKGROUND

Professional, Administrative and Technical Employees of Derry petitioned the Board for certification of a bargaining unit on January 29, 1990. The unit to consist of Professional, Administrative and Technical Employees of the Town of Derry as listed below:

Town Administrator
Executive Secretary
Planning Director
Police Chief
Police Captain
Police Captain
Administrative Secretary Police

Fire Chief
Fire Deputy Chief
Fire Deputy Chief
Administrative Secretary Fire
Code Enforcement Officer
Public Works Director
Civil Engineer II
Engineering Technician I
Public Works Coordinator
Public Works Coordinator
Utilities Coordinator
Administrative Assistant
Animal Control Officer
Recreation Director
Assistant Recreation Director
Tax Collector
Town Clerk
Assessor
Data Collector
Finance Director
Community Economic & Development Director
Vocational Specialist On-Trac

The Town of Derry did not agree with the unit as proposed and excepted the following positions being in the bargaining unit; Town Administrator, Town Clerk, Public Works Director, Recreation Director, Fire Chief, Police Chief, Community and Economic Development Director, Assessor, Executive Secretary, Administrative Secretary Police, Administrative Secretary Fire, Administrative Assistant Public Works arguing that they should be excluded under 273-A as they are confidential employees or supervisory employees excluded under 273-A:I (a), (b) and (c) and 273-A:8 II and setting forth its reasoning for the exceptions.

Hearing on this matter was held at the PELRB office in Concord, New Hampshire on April 10, 1990.

In an opening statement by Gary Wulf representing the Association stated the Association would exclude from the petition the position of Town Administrator, the Town Clerk and the Executive Secretary to the Administrator as a confidential position. All other positions enumerated in the petition should be included as the proposed unit is the outgrowth of the group historically meeting and conferring with the town for discussion of problems.

The Town by its counsel Robert Leslie, Esq., objected to many of the positions being included on the basis of their being supervisory, appointive or confidential.

Witness Rodney Bartlett former Town Administrator offered historical testimony as to past practice, level of authority and methods of selection and appointment.

Witness Captain MacIver of the Police Department offered testimony of attempts to meet and confer with the town authorities and the need now for formalization of the group and agreed that the Town Administrator, Town Clerk and Executive Secretary should be excluded from the petition.

Witness Ronald Gagnon, Deputy Fire Chief offered testimony concerning the appointment of Fire Department officers and their relationship to the Town Administrator.

Witness Paul Vayer, Town Administrator discussed the Town Organization chart, duties of several positions, Town Charter requirements, chain of command and methods of appointing and approval of individuals to fill town positions.

Witness Harry Gale, Chief Negotiator for the town testified as to the process to be followed in negotiations.

In closing statements Atty. Leslie for the Town stated they wanted to exclude all top level administration and if this is ordered the secretary should also be excluded as confidential and that the town needed some sort of top level management team free of involvement with a bargaining unit.

Gary Wulf in closing for the Association stated the law is specific and cannot be applied to suit the towns' desires regarding supervisory exclusions, and that the association will be non-affiliated to avoid the questions of conflict.

DECISION AND ORDER

After considering all the evidence presented oral and written, the Board finds as follows;

1. The petition to form a bargaining unit of Professional, Administrative and Technical Employees of Derry is GRANTED to include the following positions -

Planning Director
Police Captain
Police Captain
Administrative Secretary Police
Fire Deputy Chief
Fire Deputy Chief
Administrative Secretary Fire
Code Enforcement Officer
Civil Engineer II
Engineering Technician I
Public Works Coordinator
Public Works Coordinator
Utilities Coordinator
Administrative Assistant
Animal Control Officer
Recreation Director
Assistant Recreation Director
Tax Collector
Assessor
Data Collector
Finance Director
Community Economic & Development Director
Vocational Specialist On-Trac

2. To be EXCLUDED from the petitioned unit;

Town Administrator
Executive Secretary to Administrator
Police Chief
Fire Chief
Public Works Director
Town Clerk

An election to determine if the employees of the unit wish to be represented by the Professional, Administrative and Technical Employees of Derry for the purpose of collective bargaining and settlement of grievances will be conducted by PELRB as expeditiously as possible in accordance with RSA 273-A:10 and PELRB Rules and Regulations Pub 303.

Signed this 24th day of April, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Daniel Toomey present and voting. Also present, Executive Director, Evelyn C. LeBrun.